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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 05/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,032

Applicant(s)

STEIN, ALLEN R.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-13,15-18 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-13,15-18 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This final Office action is in response to the amendment filed March 20, 2003 (Paper No. 5). *Accordingly*, claims 2, 3, 14, 19, and 20 have been canceled and claims 21, 22, **23**, and 24 have been added.

Drawings

The proposed drawing corrections referred to in the amendment filed on March 20, 2003 are noted. *However*, no drawings accompany the amendment. *Accordingly*, the drawing objections indicated in the previous Office action are repeated as follows:

The drawings are objected to because numeral 16 in Figure 1 and numeral 16' in Figure 2 should be drawn with a line to depict the element they are referencing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

(a) 14, e.g., page 6, line 22, and

(b) 14', e.g., page 8, line 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

(a) numerals 18', 20', and 22', as in Figure 2, and

(b) numerals 18" and 22", as in Figure 3A. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 depends from a canceled claim, i.e., claim 14, and accordingly the metes and bounds of the claim cannot be properly ascertained. It is noted that the claim has been examined as though it depends from claim 12.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 6, 8-11, 12, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams '520.

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Adams '520 discloses a device comprising a rack (A), a first underlying display panel (D - lowest D in Figure 2) pivotally mounted to the rack and having a display surface having a first dimension, i.e., from the left to the right of Figure 2; a second overlying panel (D - the second D from the bottom in Figure 2) pivotally mounted to the rack, and having a second display surface having a second dimension that is smaller than the first dimension whereby the second panel overlies a portion of the first panel; a third panel (third D from the bottom of Figure 2) having a third dimension smaller than the second dimension and the third panel overlying the second panel whereby at least a portion of the second panel (generally at b) extends beyond the third display panel; at least a portion of the first panel (generally at b in Figure 1) extends beyond an edge of the second display panel; the second panel having a dimension that is smaller than the corresponding dimension of the first panel, i.e., see Figure 2, the length of D from the right side to the left side of the Figure is shorter for the second panel, thereby making the first panel wider than the second panel; and the rack comprising at least one fixed display surface (D'). *With respect to claim 11*, the first and second panels are connected along inner edges to a first edge (left side of Figure 2) of the rack to form a first array and third (top D in Figure 2) and fourth (D - second from the top) panels connected along inner edges to a second edge of the rack to form a second array. *With respect to claims 1 and 12*, it is noted that the "display surface" has been defined as the entire surface area of the panel. It is further noted that the material is not being positively claimed and therefore the panels of Adams are considered to be capable of meeting the limitations of the claims.

Claims 1, 5, 8, 9, 12, 13, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Breeding '549.

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Breeding '549 discloses a device comprising a rack (d), a first underlying display panel (100) pivotally mounted to the rack and comprising a first display panel (at 100) having a first dimension; a second underlying panel (1) pivotally mounted to the rack and overlying the first panel (when viewed from the rear of Figure 1) whereby the second panel comprises a second display surface (at 1) having a second dimension that is smaller than the first dimension; a third panel (2) overlying the second panel; at least a portion (at 11) of the first panel extends beyond an edge (top edge below the tab 1) of the second display panel; the overlying panel (1) can overlie a portion of the underlying panel while leaving a portion of the display surface uncovered, i.e., the rectangular portion of 100 below 100 is covered while 100 is not covered; the second panel having a dimension that is smaller than the corresponding dimension of the first panel, i.e., the portion where the number 100 is located is wider than the portion where the number 1 is located thereby making the shape of the second panel different than that of the first panel; and the rack comprising at least one fixed display surface (b^3) and having two arrays, i.e., on either side of b^3 . It is noted that the "sample of displayed material", in claims 1 and 12, is not being positively claimed. *However*, it is noted that the text of "100" and "1" are considered to define this "material".

Claims 1, 6-8, 12, 13, 15, 16, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Mori '641.

Mori '641 discloses a device comprising a rack (13), a first underlying display panel (11) pivotally mounted to the rack and having a display surface with a first dimension; a second overlying panel (16) pivotally mounted to the rack having a display surface with a second dimension and overlying the first panel; a third panel overlying the second panel; at least a

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portion of the first panel (between the edges of 16 and the sides of 11) extends beyond an edge of the second display panel; the overlying panel (16) can overlie a portion of the underlying panel (the portion disposed immediately beneath 16) while leaving a portion uncovered, i.e., between the edge of 16 and 11; and the second panel having a dimension that is smaller than the corresponding dimension of the first panel thereby making the first underlying display panel wider and taller than the second overlying display panel. It is noted that the "sample of displayed material", in claims 1 and 12, is not being positively claimed.

Claims 1, 4, 6-8, ~~12~~, 13, 15-17, 21 and 22 rejected under 35 U.S.C. 102(e) as being anticipated by Murphy '106.

Murphy '106 discloses a device comprising a rack (at 22), a first underlying display panel (14) pivotally mounted to the rack and having a display surface defining a first dimension; a second overlying (see Figure 2) panel (30a) pivotally mounted to the rack having a display surface with a second dimension whereby the second panel overlies the first panel whereby at least a portion of the first panel extends beyond an edge of the second display panel; the overlying panel (30a) overlying a portion (immediately below 30a) of the underlying panel (14) while leaving a portion (between the edge of 30a and the edge of 14) of the underlying panel uncovered; the second panel having a dimension that is smaller than the corresponding dimension of the first panel thereby making the first display panel wider and taller than the second display panel; and the second panel has an opening through which at least a portion of the first panel is visible. It is noted that the "sample of displayed material", in claims 1 and 12, is not being positively claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams '520, alone.

Adams '520 discloses the device as advanced above whereby the width of the overlying panel in each array is less than the width of the underlying panel. *Further*, it is noted that the overall surface area of each panel has been defined as the display surface and hence the width of the overlying panel is less than the width of the underlying panel.

The claims differ from Adams '520 in requiring a sample of material in the first display surface of the first array (claim 23) and in the third display surface of the second array (24). It is noted that the claims do not require that the overlying panels comprise a sample of material. It is further noted that the material has not been defined.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a sample of material in the first and third display surfaces, as called for in the claims, for increased use in circumstances with different display choices, thereby allowing the material placed in the underlying surfaces to be viewed when the overlying surfaces overlie the underlying surfaces, since the overlying surfaces comprise openings and no material placed therein.

Response to Arguments

Applicant's arguments filed March 20, 2003 have been fully considered but they are not persuasive.

With respect to Adams (see the middle of page 7), the examiner respectfully disagrees that "no portion of any display surface of the underlying rack or frame D of the Adams device 'extends beyond' the overlying rack or is left 'uncovered'". *Firstly*, it is noted that the "material" in claims 1 and 12 is being functionally recited and further the material has not been defined, i.e., is the material a textile, or a label, or simply lettering written on a sheet? *Accordingly*, the entire surface area of the panels (D) has been defined as a display surface, as recited in claims 1 and 12. *Thus*, the portion of the panels (at b) is left uncovered by the subsequent panel. It is noted that the claims do not require that this portion of the display surface be uncovered and unobscured by any portion of the rack, i.e., the claims merely recite that the panel can overlie a portion while leaving a portion uncovered.

With respect to Breeding and Mori (see the paragraph bridging pages 7 and 8), it is noted that the display surfaces at 100 and 1 are considered to display a sample of "material", i.e., the number 100 or 1. As above, it is noted that the "material" has not defined in the claim. Further, the panel (1) is considered to be the overlying panel (when viewed from the rear of Figure 1) and thus the portion (at 100) "is uncovered or extends beyond the overlying card", contrary to the applicant's statement (see last 2 lines of the first paragraph on page 8).

With respect to Murphy (see the bottom of page 8), once again it is noted that the "material" is not defined in the claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.

Jennifer E. Novosad/jen
May 1, 2003

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looped initial "D".

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600